

series of payments over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure; and

D⁴ means for transmitting non-zero net present value bid information to a plurality of bidders, said non-zero net present value bid information enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.

REMARKS

The Office Action mailed on September 11, 2002, which finally rejected claims 65, 69, and 75-83, has been reviewed and the comments of the U.S. Patent and Trademark Office have been considered.

Claim 75 is withdrawn, without prejudice, and claims 65, 69, 76, and 80 are amended. Thus, claims 65, 69, and 76-83 remain pending and are submitted for reconsideration by the Examiner.

Applicants respectfully assert that pending claims 65, 69, 76, and 80 as amended are allowable over the references cited by the Examiner (i.e., Burnett et al., *Effective Bid Pricing for Unit Price Contracts*, The Engineering Economist, volume 39, no. 4 (summer 1994) (the "Burnett Article") and U.S. Patent No. 6,343,277 issued to Gaus et al. ("Gaus")) because it is clear that the NPV value calculated in the Burnett Article does not "represent a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure," as required by each of the pending claims. Likewise, claims 77-79 and 81-83 are allowable over the references cited because each of these claims depends from an allowable base claim.

In the Burnett Article, the NPV value corresponds to something quite different. In describing a particular "Bid-Pricing Model," the Burnett Article characterized its NPV value as follows:

"...the firm's objective is to bid a price such that the project's net present value, evaluated at the bid price and required rate of return, is equal to zero." (Page 295, first full paragraph).

In the Burnett Article, the NPV value is determined with respect to a project, rather than with respect to a bid. More particularly, the NPV value in the Burnett Article is based on operating cash flow streams, additions to working capital during the contract term, and changes in net capital spending over the contract term. By setting the NPV value to zero, and selecting a desired rate of return, the “Bid-Pricing Model” in the Burnett Article is used to generate a set of bid prices.

Applicants assert that the NPV value taught by the Burnett Article (a value which equals or approximates zero) is substantially different from the NPV value claimed in the subject Application (i.e., a non-zero value corresponding to a series of payments). Since the Burnett Article does not teach a NPV value as claimed in the subject Application, it is respectfully asserted that the Examiner has not established a *prima facie* case of obviousness with respect to the pending claims.

Applicants further assert that even assuming, *arguendo*, that the NPV values taught by the Burnett Article fell within the scope of the pending claim language in the subject Application, the Examiner’s rejection is still improper because there is no suggestion or motivation in the Burnett Article and Gaus, either alone or in combinations, to combine the teachings of the Burnett Article with Gaus, as set forth by the Examiner. In this regard, for instance, Applicants note that the NPV bids generated in the pending claims are used to effect “a relative comparison of ...bids...on a common competitive basis.” *See, e.g.*, claim 65. Since the NPV values taught by the Burnett Article represent values which are zero (or approximately zero) for each bidder, it is clear that the Burnett NPV values could not be used to effect “a relative comparison of transformed bids... on a common competitive basis,” as required, for instance, by pending claims 65 and 69 as amended.

Accordingly, it is clear that the Burnett NPV values could not be used either to effect “a relative comparison of transformed bids” or to “represent a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure,” as required by each of the pending claims. For this reason as well, Applicants respectfully submit that the Office Action has not established a *prima facie* case of obviousness and that the rejections under 35 U.S.C. § 103(a) should be withdrawn.

CONCLUSION

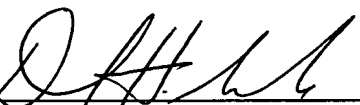
In view of the foregoing amendment and remarks, it is respectfully submitted that pending claims 65, 69, and 76-83 are in condition for allowance. Accordingly, reconsideration and allowance of claims 65, 69, and 76-83 are earnestly solicited.

Furthermore, Applicants submit that no new matter has been introduced into this Response presented herein. The Examiner is invited to contact the undersigned at 215-963-5055 to discuss any matter concerning this Application.

If there are any other fees due in connection with the filing of this response, please charge the fees to our Deposit Account No. 50-0310. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Date: 11-22-02

By: 
Daniel H. Golub
Reg. No. 33,701
Customer No. 028977
MORGAN, LEWIS & BOCKIUS, LLP
1701 Market Street
Philadelphia, PA 19103-2921
Telephone: (215) 963-5055
Facsimile: (215) 963-5001

**CLAIMS WITH MARKING TO SHOW CHANGES MADE**

65. (Twice Amended) A system for conducting an electronic auction between a plurality of potential bidders, the plurality of potential bidders competing for a lot having at least one product, comprising:

means for receiving bid information from a first bidder for said lot; and

means for generating a transformed bid using at least said bid information, said generated transformed bid being used to effect a relative comparison of transformed bids, said relative comparison of transformed bids enabling submitted bids, defined in one or more bidder-specific contexts, to be compared on a common competitive basis;

wherein said means for generating generates a non-zero net present value bid using a predefined discount rate structure and received multi-segment bidding parameters, said non-zero net present value bid representing a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using said predefined discount rate structure.

69. (Twice Amended) A method of participating in an electronic auction between a plurality of potential bidders, the plurality of potential bidders competing for a lot having at least one product, comprising the steps of:

(a) receiving bid information from a bidder for said lot;

(b) generating a transformed bid using at least said bid information; and

(c) transmitting transformed bid information to an auction server, said transformed bid information enabling said auction server to generate a relative comparison of bids, originally defined in one or more bidder-specific contexts, on a common competitive basis;

wherein step (b) comprises the step of generating a non-zero net present value bid using a predefined discount rate structure and received multi-segment bidding parameters, said non-zero net present value bid representing a sum of a series of payments over a plurality

of contract term segments which are discounted to a present value using said predefined discount rate structure.

76. (Amended) A method of conducting an electronic online auction between a plurality of bidders, the plurality of bidders competing for a lot having at least one product, comprising the steps of:

- (a) receiving net present value bid information from a bidder for the lot;
- (b) generating a non-zero net present value bid value using said net present value bid information, said non-zero net present value bid value representing a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure; and
- (c) transmitting non-zero net present value bid information to a plurality of bidders, said non-zero net present value bid information enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.

80. (Amended) A system for conducting an electronic online auction between a plurality of bidders, the plurality of bidders competing for a lot having at least one product, comprising:

- means for receiving net present value bid information from a bidder for the lot;
- means for generating a non-zero net present value bid value using said net present value bid information, said non-zero net present value bid value representing a sum of a series of payments over a plurality of contract term segments which are discounted to a present value using a predefined discount rate structure; and
- means for transmitting non-zero net present value bid information to a plurality of bidders, said non-zero net present value bid information enabling a plurality of bidders to view non-zero net present value bids submitted by a plurality of bidders.